



International Law Moot Court Competition
“Asia Cup 2019”

The Case Concerning
the Maritime Operation “Sheer Cliff”
and Certain Criminal Proceedings

The Kingdom of Amphit (Applicant)

vs.

The Republic of Rhea (Respondent)

(1) The Kingdom of Amphit is a developed country located on the Nereus continent, with a population of 80 million people. Until the independence of the Republic of Rhea and the State of Theseus in 1965, Amphit was the colonial ruler of the two countries. The Kingdom of Amphit continues to achieve stable economic growth as a technologically advanced country that is at the cutting edge in the world. The Prime Minister, Mr. Poseidon, advocates human rights diplomacy and aims to achieve “positive peace” in the international community.

(2) The Republic of Rhea is a developing country on the Gaia continent to the north of Nereus and faces the Sea of Labyrinthos on the eastern side. It was a non-self-governing territory administered by Amphit but joined the United Nations after its independence (in 1965). The current population is about 10 million people. While its economy was supported by the traditional fishery at the time of independence, it has been gradually industrializing and its economy is growing.

(3) The State of Theseus is an archipelagic nation in the Sea of Labyrinthos, located more than two hundred and fifty (250) nautical miles away from the eastern coast of Rhea. It was also a non-self-governing territory administered by Amphit but joined the United Nations after independence (in 1965). Although the State has more than three hundred (300) islands, the Island of Theseus is the only island suitable for the majority of the current population, which is approximately five (5) million, to inhabit. The eastern part of the island is a political center where the Government, the Parliament, and the Supreme Court are located. However, surrounded by mountains, the district is sparsely inhabited. As a result, most of the population live in the western area, which is rapidly developing due to the increasing foreign investment by major resort companies.

(4) While Theseus attracted foreign visitors from around the world and its economy was growing, illicit drug trade and human trafficking began to spread in the country from around the year 2000. The main culprit is the Minotauros, a criminal organization that has been influential in resort development. Despite massive investment of resources to curb the crimes, it was quite difficult for the Government to detect and arrest the criminals who were using many remote islands as trading places, and they became increasingly active.

(5) At the beginning of December 2016, the Minotauros, which had become resourceful by their illicit drug trade and human trafficking, armed themselves and effectively occupied the western area of Theseus, and entered into an armed conflict with the National Defense Forces of Theseus. Due to the armed conflict, the traffic between the western and eastern sides of the island of Theseus became totally blocked, and the living conditions across the island sharply deteriorated. As a result, many Theseus islanders were forced to escape from the island by their own boats, and they fled to the Republic of Rhea. In response to the massive outbreak of displaced people, the Rhean Government enacted the Emergency Protection Act for Theseusians (EPAT) as a temporary measure. The Act granted a 5-year residence

permit to the evacuees from the State of Theseus while reserving the Government's discretion to respond to future changes of circumstances.

(6) In March 2017, Delphinus, an international non-governmental organization (NGO) established under the laws of the Kingdom of Amphit released a survey, reporting that more than one hundred thousand (100,000) people had left Theseus since the armed conflict started. It also stated that more than five thousand (5,000) people had been killed by drowning before reaching the Rhean coast. It warned that the rampant human smuggling and human trafficking targeting the evacuees were causing the increase in the death toll.

(7) At the end of March, Ms. Arion, the Head of Delphinus Headquarters in the Kingdom of Amphit, announced the launch of Humanitarian Operation "Ariadne's Thread," a humanitarian rescue mission at the Sea of Labyrinthos. The operation is to dispatch the Amphit-registered vessel M/V Dignitas, owned by the Delphinus Headquarters, to the Sea of Labyrinthos, rescue the Theseusians on to the vessel, and escort them to a port in the Republic of Rhea, the closest and safest country in the area. The Rhean Government granted residence permits under the EPAT to those rescued.

(8) As the influxes of refugees from Theseus continued, there was increase in number of reports that the rate of drug-related crimes was on the rise and that the safe living environment was being jeopardized. According to a survey conducted by one of the biggest Rhean newspaper, as the drug trafficking affected Rhean citizens more, they showed more frustration with the immigrants from Theseus as well as with the continuation of the rescue operation by Delphinus. Correspondingly, the election in January 2018 resulted in the victory of President Skyros, who advocates the anti-drugs and anti-immigrants policy. The Skyros administration abolished the EPAT and tightened the enforcement of the Drugs Regulation Act. As a part of this policy, the Minister of National Defense was authorized to order "necessary measures" to ensure effective immigration control against vessels sailing to the port of Rhea without an entry permit.

(9) On 1 April 2018, Mr. Lycomedes, the Minister of National Defense of the Republic of Rhea, held a press conference and announced to initiate the Maritime Operation "Sheer Cliff" to eradicate drug trafficking disguised as humanitarian rescues. In this operation, as soon as the Marine Security Bureau, an intelligence agency, confirms a vessel with Theseusians on board approaching the territorial sea of Rhea, a warship issues a warning by radio, approaches to the vessel, and instructs it to stop at a place more than thirty (30) nautical miles remote from the baseline and to change the route. M/V Dignitas has also been forced to change the course several times by this procedure and unable to enter the port of Rhea since then. In addition, other countries on the Gaia continent expressed the same concern as the Rhean Government had over the Operation "Ariadne's Thread." As a result, M/V Dignitas had no choice

but to make a significantly longer journey to the flag State, Amphit, as it was unrealistic to send victims back to Theseus in the middle of the armed conflict.

(10) According to a report issued later in April 2019 by the Ministry of National Defense of the Republic of Rhea, the Maritime Operation “Sheer Cliff” prevented since its launch at least 50 suspicious vessels carrying refugees from entering into territorial sea of the Republic of Rhea. However, according to a survey conducted by Delphinus in collaboration with several international NGOs, the number of casualties at the Sea of Labyrinthos in April 2018 had doubled compared to the month in which the worst number of deaths had been reported during the period between the beginning of the armed conflict and March 2018.

(11) On 30 April 2018, in response to the re-increase of the victims after the Maritime Operation “Sheer Cliff” started, Prime Minister of Amphit, Mr. Poseidon, notified the Republic of Rhea as follows:

The noble spirit that the Republic of Rhea once manifested as a member of the international community has proved to be fake in a blink of our eye. Now, the Republic of Rhea has built a “sheer cliff” on the sea that recklessly blocks the innocent people risking their lives to cross the sea. The Republic of Rhea should immediately dismantle this ruthless sea wall and save the lives from the labyrinth on the sea in order to return to a faithful compliance with international law.

(12) The next day, Mr. Lycomedes, the Rhean Defense Minister, criticized the remarks of Mr. Poseidon as “irresponsible” and responded as follows:

People in the safe area far away from the tragedy should shut up. It is “We the People,” the Republic of Rhea, who is actually suffering. We have accepted a large number of immigrants without certificates, whose number has grown to even one-fiftieth of our population. If this continues to grow, we cannot secure our own survival. In order to maintain the security of ourselves, it is necessary to stop drug trade and human trafficking at the edge of our territorial sea, and the Maritime Operation “Sheer Cliff” forms the core mission for achieving this end.

(13) On the same day, in a press conference, Ms. Arion, the Delphinus headquarters chief, criticized the Maritime Operation “Sheer Cliff” as follows:

We are highly proud of our Humanitarian Operation “Ariadne’s Thread” through which we have saved innocent lives escaping from the ravage of armed conflict in Theseus. Its success was owed to the generous cooperation on the opposite side of the sea, namely, the Republic of Rhea. Now that the people of the Republic of Rhea have sold their souls to the devil, we are

forced to go through a different long-distance route to Amphit, the only brave country that shows the willingness to support our Operation. Despite its support, the number of operations we can pursue has been excessively reduced, and we are witnessing a nightmare in which innocent evacuees we could save before are drowning to death. Nevertheless, what we should do at present is not to be disappointed but to keep dropping the life-saving thread in the Sea of Labyrinthos.

(14) On 8 September 2018, twenty (20) staffs of Delphinus branch office in Rhea, all having the nationality of Amphit, were charged with the allegation of drug trafficking through the Humanitarian Operation “Ariadne’s Thread.” Although Delphinus headquarters denied the allegations as groundless, those staffs were forced to leave the building and deported to the outside of the territorial sea of the Republic of Rhea on a boat of the Ministry of National Defense. Also on board were sixty-three (63) Theseusian immigrants deprived of the residence permit for the allegation of drug trafficking. M/V Dignitas was dispatched to the site and rescued all persons on the boat on the edge of territorial sea of the Republic of Rhea. These people were escorted to Amphit.

(15) According to a report of a human rights NGO based in the Republic of Rhea, the deportation on 8 September 2018 was conducted under the direction of the Minister of National Defense, Mr. Lycomedes. Asked about the report, Mr. Lycomedes admitted that he did order the deportation as part of the policy pursued since 1 April 2018 and stated that Rhea just expelled criminals.

(16) On 15 December 2018, the Prosecutor’s Office of the Kingdom of Amphit, based on testimonies from the deported Delphinus staffs and immigrants as well as other evidences obtained through its own investigation, requested the court in Amphit to issue an arrest warrant to Mr. Lycomedes for ordering “deportation or forcible transfer of population,” which constitutes a “crime against humanity” under the Act on Criminal Proceedings.

(17) The next day, immediately after the arrest warrant was issued, Mr. Skyros, the President of the Republic of Rhea, protested against the Amphittan Government in a diplomatic note as follows:

Our Minister of National Defense faithfully performed his task of ensuring the security and order of our nation. Subjecting senior officials of another sovereign State to the criminal proceedings of the Kingdom of Amphit’s is an unjustified ignorance of international law, destroying the principle of sovereign equality which lied at the core of the international relations, and is a new form of colonialism.

(18) The next day, Mr. Poseidon, Prime Minister of the Kingdom of Amphit, sent to the Rhean Government a reply as follows:

Our judiciary cannot overlook international crimes attacking our own nationals and does exercise criminal jurisdiction on behalf of the international community to eradicate such cruelties. Those who committed to the absolute insane evil must be brought to justice, whoever they are, and even if they are government officials of an equally sovereign State.

(19) On 1 April 2019, after diplomatic negotiations, the Governments of the Kingdom of Amphit and the Republic of Rhea agreed to refer to the International Court of Justice under Article 36 (1) of the Court's Statute the dispute concerning:

- The Maritime Operation "Sheer Cliff" initiated by the Republic of Rhea on 1 April 2018; and
- Criminal proceedings initiated by the Kingdom of Amphit against Mr. Lycomedes, the Minister of National Defense of the Republic of Rhea, on 15 December 2018.

Both parties have made clear that they will not dispute the Court's jurisdiction over the dispute and the admissibility of the other party's claims.

(20) The status of treaty ratification of the parties is as follows:

- Both parties are Members of the United Nations (UN) and are parties to the Vienna Convention on the Law of Treaties.
- Both parties signed and ratified the United Nations Convention on the Law of the Sea (UNCLOS) in 1982, and established the territorial seas of twelve (12) nautical miles, the contiguous zones of twenty-four (24) nautical miles, and exclusive economic zones of two-hundred (200) nautical miles from the baseline of each.
- The Kingdom of Amphit is a party to the International Convention on Search and Rescue at Sea and the International Convention on the Safety of Life at Sea (SOLAS Convention), but the Republic of Rhea has not signed these Conventions and not a party to them.
- The Kingdom of Amphit is a party to all major UN human rights treaties, while the Republic of Rhea is a party only to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC).
- Although the Kingdom of Amphit is a party to the Refugee Convention and its Protocol, the Republic of Rhea has not signed or ratified them although the former administration had taken preparatory steps for concluding them.
- Both parties are preparing to ratify the Rome Statute of the International Criminal Court (ICC) but have not signed or ratified it yet. Although the Kingdom of Amphit has ratified the UN Convention against Transnational Organized Crime and all protocols thereto, the Republic of Rhea has only started preliminary examinations for concluding the Convention under the Skyros administration.

- There is no regional economic integration community or regional human rights convention applicable to the Gaia continent.

(21) The Kingdom of Amphit (the Applicant) respectfully requests that the Court to adjudge and declare:

1. That Maritime Operation “Sheer Cliff” initiated by the Republic of Rhea on 1 April 2018 has violated international law, and therefore, the Republic of Rhea must take necessary measures to put an end to the Operation; and
2. That the criminal proceedings initiated by the Kingdom of Amphit against Mr. Lycomedes, the Minister of National Defense of the Republic of Rhea, on 15 December 2018 do not violate international law.

(22) The Republic of Rhea (the Respondent) respectfully requests that the Court to adjudge and declare:

1. That the Maritime Operation “Sheer Cliff” initiated by the Republic of Rhea on 1 April 2018 has not violated international law; and
2. That the criminal proceedings initiated by the Kingdom of Amphit against Mr. Lycomedes, the Minister of National Defense of the Republic of Rhea, on 15 December 2018 violate international law, and therefore, the Kingdom of Amphit must take necessary measures to put an end to the proceedings.